

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7629

BILL NUMBER: HB 1798

NOTE PREPARED: Apr 28, 2003

BILL AMENDED: Apr 25, 2003

SUBJECT: Storm Water Management, Wetlands, Auto Emissions.

FIRST AUTHOR: Rep. Bottorff

FIRST SPONSOR: Sen. Gard

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill allows a third class city to adopt an ordinance providing for the control of any or all of its storm water facilities by the board that controls the municipality's municipally owned utilities.

The bill enumerates factors that may be used to establish user fees and allows different fee schedules based on certain factors. The bill allows a county other than Marion County to establish a department of storm water management under certain circumstances. (Current law provides that the department of public works acts as the department of storm water management in Marion County.)

This bill also provides that the drainage board of a county that has not adopted an ordinance to establish a department of storm water management may establish fees for services provided by the board to address issues of storm water quality and quantity. The bill makes conforming changes.

The bill also amends the definition of a board of a department of storm water management and provides that a board does not have exclusive jurisdiction over the collection and disposal of storm water in the district.

It requires a department to maintain private property if the department uses the property for storm water collection or disposal and obtains the consent of the owner.

A person may not be required to screen a storm water outfall if the pipe diameter of the storm water outfall is less than 24 inches.

The bill establishes a program for the issuance of permits for filling, dredging, or excavating certain

wetlands.

It prohibits the Air Pollution Control Board from adopting rules to require motor vehicle emissions testing in Clark County and Floyd County after December 31, 2006. It allows the Budget Agency to approve testing if necessary to avoid a loss of federal highway funding. The bill prohibits a person from being charged a fee for vehicle emission testing.

Effective Date: Upon passage; July 1, 2003.

Explanation of State Expenditures:

Program for Filling, Excavating, and Dredging Wetlands. This bill contains a number of rulemaking directives and requires the Department of Environmental Management (IDEM) to operate a wetlands permit program. Some of the rulemaking directives are included in the rulemaking that was preliminarily adopted by the Water Pollution Control Board, while other rulemaking directives are new. IDEM has historically operated the Clean Water Act's Section 401 Water Quality Certification program which no longer applies to "isolated wetlands." However, the creation of a state program to regulate isolated wetlands will not require new resources, except for provisions that call for the categorization of wetlands.

IC 13-18-22 directs the Water Pollution Control Board to establish a permit by rule. Rules on wetlands were preliminarily adopted by the Board, but the rulemaking directives in the bill depart from the preliminarily adopted rule. Therefore, IDEM would incur additional staff costs associated with rulemaking development activities for the rulemaking directives in the bill. These staff costs are indeterminate at this point but are not expected to be significant.

The bill directs IDEM to administer the wetland permit program. IDEM has historically operated a certification program for wetlands. Based on the proposal, many fewer wetlands will require an individual permit or 'certification,' so significantly fewer resources will be needed to review applications. However, the permits require categorization of wetlands in a manner that is not familiar to IDEM. Consequently, significant additional effort will be required to implement this provision. Resources needed for this activity are currently indeterminable.

The bill directs the Board to adopt rules for designating a wetland as an outstanding state protected wetland. This requirement is not included in the preliminarily adopted rule. IDEM would incur additional staff costs for conducting the rulemaking and implementing this aspect of the program. Costs are currently indeterminable.

The bill requires the Environmental Quality Service Council (EQSC) to monitor implementation, make recommendations, and review the role of IDEM in certain permit programs. The EQSC must evaluate the tensions between existing programs for wetlands protection and for local drainage; recommend principles and policies for ameliorating those tensions; and submit a final report to the Governor and Legislative Services Agency before November 1, 2005. Legislative Council Resolution 02-02 (as adopted July 24, 2002) provided a budget of \$12,000 for committees with over 16 members. The EQSC would be subject to this budget under the existing resolution.

Auto Emissions Testing. This bill prohibits the Air Pollution Control Board from adopting rules to require motor vehicle emissions testing in Clark County and Floyd County after December 31, 2006. IDEM has a ten-year contract, which expires in December 2006, with Envirotech to conduct the tests. The contractor has

estimated that closing these two stations would save IDEM approximately \$980,000 per year.

Background Information. The Auto Emission Testing Program expended \$6.9 M in FY 2002. Of this total, \$257,192 was for personal services and over \$6.6 M was for grants, distributions, and subsidies. The program received \$1.5 M in federal funding in FY 2001 and \$300,000 in FY 2002. Federal funding is not expected for this program for the upcoming biennium.

IDEM requested \$7.9 M per year for the Auto Emissions Program for the 2003-2005 biennium. There is no fee assessed vehicle owners for the test. Nine testing sites exist: seven in the northern part of the state; two in the southern part: one in Clark County, and one in Floyd County. (One testing site is located in Jeffersonville and one in New Albany.) The two sites in the southern part of the state test 50,000 vehicles per year. Sites in the northern part of the state test 150,000 vehicles per year.

Four IDEM staff members are funded with the program budget at a requested \$171,990 per year, or about \$43,000 per employee per year, for the 2003-2005 biennium.

The federal Clean Air Act mandated that Indiana implement a vehicle emission testing program as an ozone control measure for Lake, Porter, Clark, and Floyd Counties in order to help reduce emissions of mobile sources of volatile organic compounds, nitrogen oxides, and carbon monoxide, which form ozone. Currently, cars are tested once every two years. The four newest model years are exempt from testing.

Explanation of State Revenues: With respect to auto emissions testing, the bill allows the Budget Agency to approve testing if necessary to avoid a loss of federal highway funding. The bill also prohibits a person from being charged a fee for vehicle emission testing.

Explanation of Local Expenditures: Counties that establish a department of storm water management would experience expenses related to the operation of the department. Counties would also have to pay travel expenses for members of the board of public works. The specific impact would depend on local action. The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal must be charged against all the territory in the county, except territory within a municipality, and paid for as the service accrues out of current revenues of the county generated to meet the county's necessary expenses. The impact of this provision would depend upon the needs of the individual county.

Before a county imposes a tax levy, the fiscal body of the county must give public notice and hold a hearing on the proposal for the tax levy. The impact of this provision would depend on local action.

The bill allows a third class city to adopt an ordinance providing for the control of any or all of its storm water facilities by the board that controls the municipality's municipally owned utilities. If a unit adopts such an ordinance, the unit is not subject to certain procedures prescribed for the sharing of costs of repairing or replacing a combined storm water and sanitary sewer system. Before a unit imposes a tax levy, the fiscal body of the unit must give public notice and hold a hearing on the proposal for the tax levy. The impact of these provisions would depend on local action.

With respect to wetlands, the local government having authority over the property on which the wetland is located may approve the filling, dredging, or excavating of a wetland. This provision may result in additional administrative expenses for the local unit. The impact should be minimal.

Explanation of Local Revenues: The bill allows a county other than Marion County to establish a department of storm water management. The county could establish a special taxing district for this purpose and generate revenue. The bill provides that the drainage board of a county that has not adopted an ordinance to establish a department of storm water management could assess and collect user fees from all the property of the storm water district for the operation and maintenance of the storm water system. The county could also levy a special benefits tax and issue bonds to finance storm water management operations, facilities, and equipment. The amount of revenue that would be generated by the proposal would depend on local action.

State Agencies Affected: IDEM.

Local Agencies Affected: Counties, municipalities, and local units that contain certain wetlands.

Information Sources: IDEM.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586